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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/743,416

12/22/2003

Khasid M. Ali Khan

5150-84100

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35690

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06/06/2006

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
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EXAMINER

PEYTON, TAMMARA R

ART UNIT

PAPER NUMBER

2182

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/743,416	Applicant(s) ALI KHAN ET AL.	
	Examiner Tammara R. Peyton	Art Unit 2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to After Final Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Therewith, the amendment filed 5/15/06 was entered and applicant arguments are moot based on the new grounds of rejection.

Claim Rejections - 35 USC § 112

Claims 1-11 and 13-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Examiner argued in the previous office action that the claim language of "substantially in real-time" does expressly define the time between the occurrence of the captured data event and the display. The specification discloses that "system 100 may be configured such that a data event occurring with a given minimum duration and maximum frequency is guaranteed to be displayed via user application 210 within a given maximum latency after the occurrence of the data event.", pg. 13, lines 1-3. Therefore, Examiner is taking the position that "a

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given maximum latency” does not clearly define that is meant by “substantially real-time” as a time between the occurrence of the captured data event and the display.

Applicant replied by adding the following limitation to independent claims 1, 11, and 22, “wherein said application and said data capture logic are further configured such that a given one of said data events occurring on said nondeterministic data bus with a given minimum duration is **guaranteed** to be displayed by said application within a given maximum latency after the occurrence of the given data event.” Examiner read the specification and no clear definition of a given minimum duration or a give maximum latency. Explanation is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 and 13-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The added claim language “wherein said application and said data capture logic are further configured such that a given one of said data events occurring on said nondeterministic data bus with a given minimum duration is **guaranteed** to be displayed by said application within a given maximum latency after the occurrence of the given data event,” does not clearly define what is meant by “substantially real-time” as a time between the occurrence of the captured data event and the display time with “a given minimum duration” that is “guaranteed”

within "a given maximum latency." The claim language is indefinite because little explanation is given to what is considered minimum and what is considered maximum.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11 and 13-31 are rejected under 35 U.S.C. 103(a) as being obvious over by Kowert (US 5,649,129).

As per claims, 1, 4, 5, 6, 7, 8, 11, 15, 16, 18, 19, 22, 25, 26, 28, and 29 , Kowert teaches a method, comprising:

capturing data events from a nondeterministic data bus; transferring (via DMA transfer) said captured data events to a region of a data event buffer as portions of said captured data events become available; retrieving captured data events from said region of said data event buffer. As noticed in the previous Office Action Examiner agreed with Applicant that Kowert does teach a GPIB analyzer and a display is used to monitor captured data. However, the claim language of "substantially in real-time" does not expressly define the time between the occurrence of the captured data event and the display. Applicant responded by adding the following claim language "wherein said

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application and said data capture logic are further configured such that a given one of said data events occurring on said nondeterministic data bus with a given minimum duration is guaranteed to be displayed by said application within a given maximum latency after the occurrence of the given data event." Examiner read the specification and no definite range is given for a time between given minimum duration and a give maximum latency. Therefore, Examiner is taking the position that Kowert does teach a GPIB analyzer and Kowert has a display that is used to monitor captured data. Kowert does not expressly disclose a time between given minimum duration and a give maximum latency; nonetheless, a clear range between a between given minimum duration and a give maximum latency is not defined in the claim in such a way that will not distinguish the claimed invention in terms of patentability. Examiner is taking the position that because no clear range defining a given minimum duration and a give maximum latency that Kowert does teach eventually displaying monitored captured data.

As per claims 2, 3, 13, 14, 20, 23, 24, and 30, Kowert does not teach wherein the data event buffer is circular or linear, however, one of ordinary skill would readily recognize that a circular or a linear buffer is well known in the art, thereby making use of these types of well known buffers obvious to one of ordinary skill. Furthermore, Kowert teaches the use of buffer and therefore Kowert teaches the control implementation of said buffers. Therefore, it would have been obvious to one of ordinary skill at the time the invention was made that depending upon the type of application utilized that Kowert

would have been motivated to implement advance type of buffers and doing so would not depart from the invention concept.

As per claim 9, 20, and 30, Kowert teaches having a sample index value for the captured data events, therefore, it would have been obvious that transmissions related to the sample index value is performed via a DMA transfer.

Conclusion

Applicant's arguments filed 01/03/06 have been fully considered but they are not persuasive. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (571)

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272-4157. The examiner can normally be reached between 6:30 - 4:00 from Monday to Thursday, (I am off every first Friday), and 6:30-3:00 every second Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Huynh can be reached on (571) 272-4147. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2100.

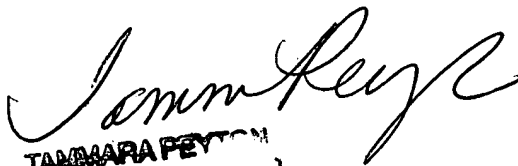
Mailed responses to this action should be sent to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231.

Faxes for Official/formal (After Final) communications or for informal or draft communications (please label "PROPOSED" or "DRAFT") sent to:
(571) 273-8300

Hand-delivered responses should be brought to:
USTPO, Randolph Building, Customer Service Window
401 Dulany Street
Alexandria, VA 22314.

Tammara Peyton
May 26, 2006



TAMMARA PEYTON
PRIMARY EXAMINER